

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JEREMY BLANK,
Petitioner,

v.

Case No. 09-C-0733

ROBERT HUMPHREYS, Warden,
Kettle Moraine Correctional Institution,
Respondent.

DECISION AND ORDER

On March 22, 2011, I entered an order requiring habeas petitioner Jeremy Blank to decide between, on the one hand, pursuing his unexhausted claims in state court and staying the remaining claim in his federal petition and, on the other, dismissing his unexhausted claims and proceeding with the exhausted claim immediately. Blank has since informed me that he wants to return to state court while I hold this case in abeyance. His request will be granted.

Blank has also filed a motion to appoint counsel in which he claims that the "Education Director" at Kettle Moraine Correctional Institution is obstructing his access to the law library. Blank seeks to have counsel appointed so that he does not have to worry about gaining access to the law library to conduct his own legal research. However, if Blank's allegations against the Education Director are true, his remedy is to pursue a § 1983 action against her. Since the Director is not a party to this action and could not be made a party, I am in no position to determine whether Blank's allegations are true, and I have no authority to appoint counsel as a remedy for the Director's alleged behavior. Thus, the motion to appoint counsel will be denied, along with the related motion for

production of documents. Nonetheless, I urge counsel for respondent to talk to his client and ensure that Blank is not being denied access to legal materials. It will not do anyone any good to require Blank to initiate a § 1983 case over this issue.

Finally, although Blank had filed a motion to expedite the disposition of his habeas petition, he now concedes that in light of my March 22nd order that motion is moot.

CONCLUSION

THEREFORE, IT IS ORDERED that this case is **STAYED** pending the conclusion of Rothering proceedings in state court. The parties shall keep the court informed as to the status of these proceedings by filing status reports every ninety days. The first such report is due by July 28, 2011.

IT IS FURTHER ORDERED that Blank's motion to appoint counsel and motion for production of documents is **DENIED**.

FINALLY, IT IS ORDERED that Blank's motion for expedited disposition of his habeas petition is **DENIED** as **MOOT**.

Dated at Milwaukee, Wisconsin, this 27th day of April, 2011.

/s _____
LYNN ADELMAN
District Judge